

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 303 OF 2016
IN
CRIMINAL APPEAL NO. 225 OF 2016

1. Mahadu Rama Bombale
2. Raghunath Mahadu Bombale
3. Soma Dattu BombaleApplicants

V/s.

The State of MaharashtraRespondent

Mr. Sham V. Walve h/f Mr. Swapnil Walve for Applicant
Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : MARCH 22, 2016.

PC :

Heard. This is an application under section 389 of Code of Criminal Procedure, 1973 seeking suspension of substantive sentence. Applicants herein are convicted for offence punishable under sections 324, 323, 504, 506 (II) r/w 34 of Indian Penal Code. Applicants are sentenced to suffer rigorous imprisonment for 2 years and fine of Rs. 5000/- each in default to suffer rigorous imprisonment for 4 months for offence punishable under section 324 r/w 34 of Indian Penal Code. They are also convicted for offence punishable under section 323 r/w 34 of Indian Penal Code and sentenced to suffer rigorous imprisonment for 6 months and to pay fine of Rs. 1000/- each in default to suffer rigorous

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imprisonment for 1 month. Applicants are also convicted for offence punishable under section 504 r/w 34 of Indian Penal Code and sentenced to suffer rigorous imprisonment for 6 months and fine of Rs. 1000/- each in default to suffer further rigorous imprisonment for 1 month. Applicants are also convicted for offence punishable under section 506 (II) r/w section 34 of Indian Penal Code and sentenced to suffer rigorous imprisonment for 1 year and fine of Rs. 2000/- in default to suffer rigorous imprisonment for 6 months by Additional Sessions Judge, Nashik in Sessions Case No. 219 of 2014 vide Judgment and Order dated 08/06/2015.

2) There was delay in filing appeal against conviction. The said delay was condoned vide order dated 11/03/2016. Applicants have been taken into custody in the last week of February 2016 and they are in custody.

3) Original accused nos. 2 & 3 who are appellants in Criminal Appeal No. 846 of 2015 have been enlarged on bail by the Hon'ble Division Bench of this Court vide order dated 19/10/2015, after appreciating the overt act attributed to them. In the present case, applicants are sentenced to a short term sentence and they are in custody. Applicant no. 1 happens to be a prosecution witness in Sessions Case No. 142 of 2013. Applicants deserve to be enlarged on bail during the pendency of appeal.

4) Hence, following order.

ORDER

- (i) Application is allowed.
- (ii) The substantive sentence imposed upon the applicants is hereby suspended and they be enlarged on bail, same bail fresh bonds.
- (iii) Applicants shall report to Court of Sessions Nashik, once in six months, on the date as directed by the concerned Court, till the conclusion of appeal.
- (iv) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.
- (v) Application stands disposed of.
- (vi) Parties to act on authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)